

(c) The Office shall prescribe regulations under which this section shall be applied in the case of a reemployed annuitant.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 535; amended Pub. L. 99-556, title I, §121, Oct. 27, 1986, 100 Stat. 3134; Pub. L. 106-394, §3(a), Oct. 30, 2000, 114 Stat. 1630.)

#### REFERENCES IN TEXT

Section 203 of the Social Security Act, referred to in subsec. (b)(4)(A), is classified to section 403 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2000—Subsec. (b)(5). Pub. L. 106-394 added par. (5).

1986—Subsecs. (c), (d). Pub. L. 99-556 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “If, after an individual ceases to be entitled to an annuity supplement under section 8421 by reason of subsection (a)(3)(B) of such section, any portion of the individual’s excess earnings remains outstanding, an amount not to exceed 25 percent of the amount otherwise payable to such individual under this chapter for each month shall be deducted from such monthly payment until the full amount of that outstanding portion has been accounted for. To the extent practicable, reductions under this subsection shall be made by a level percentage.”

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-394, §3(b), Oct. 30, 2000, 114 Stat. 1630, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reductions required to be made in calendar years beginning after the date of the enactment of this Act [Oct. 30, 2000].”

### § 8422. Deductions from pay; contributions for other service

(a)(1) The employing agency shall deduct and withhold from basic pay of each employee and Member a percentage of basic pay determined in accordance with paragraph (2).

(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

(A) the applicable percentage under paragraph (3), minus

(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

(3) The applicable percentage under this paragraph for civilian service shall be as follows:

Employee	7	January 1, 1987, to December 31, 1998.
	7.25	January 1, 1999, to December 31, 1999.
	7.4	January 1, 2000, to December 31, 2000.
	7	After December 31, 2000.
Congressional employee.	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	7.5	After December 31, 2000.
Member	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.

Law enforcement officer, firefighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller.	7.5	After December 31, 2002.
	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
Nuclear materials courier.	7.5	After December 31, 2000.
	7	January 1, 1987, to October 16, 1998.
	7.5	October 17, 1998, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
Customs and border protection officer.	7.9	January 1, 2000, to December 31, 2000.
	7.5	After December 31, 2000.
	7.5	After June 29, 2008.
	7.5	After June 29, 2008.

(b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter, or under subchapter IV or V of this chapter, based on the service of the employee or Member.

(c) The amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Secretary of the Treasury may prescribe.

(d)(1) Under such regulations as the Office may prescribe, amounts deducted under subsection (a) shall be entered on individual retirement records.

(2) Deposit may not be required for days of unused sick leave credited under section 8415(k).<sup>1</sup>

(e)(1)(A) Except as provided in subparagraph (B), and subject to paragraph (6), each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office shall issue, to the agency by which the employee is employed, or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, an amount equal to 3 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based on estimates of such basic pay provided to the Office under paragraph (4).

(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may

<sup>1</sup> See References in Text note below.

not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.

(2) Any deposit made under paragraph (1) more than two years after the later of—

(A) January 1, 1987; or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member following the period of military service for which such deposit is due,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

(3) Any payment received by an agency, the Secretary of the Senate, or the Chief Administrative Officer of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.

(5) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.

(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader. This paragraph shall be subject to paragraph (4).

(2) Any deposit made under paragraph (1) more than 2 years after the later of—

(A) October 1, 1993, or

(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.

(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

(A) January 1, 1999, through December 31, 1999, shall be 3.25 percent; and

(B) January 1, 2000, through December 31, 2000, shall be 3.4 percent.

(g) A Member who has served in a position in the executive branch for which the rate of basic pay was reduced for the duration of the service of the Member to remove the impediment to the appointment of the Member imposed by article I, section 6, clause 2 of the Constitution, or the survivor of such a Member, may deposit to the credit of the Fund an amount equal to the difference between the amount deducted from the basic pay of the Member during that period of service and the amount that would have been deducted if the rate of basic pay which would otherwise have been in effect during that period had been in effect, plus interest computed under section 8334(e).

(h) No deposit may be made with respect to service credited under section 8411(b)(6).

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 536; amended Pub. L. 100-238, title I, §104(a), Jan. 8, 1988, 101 Stat. 1746; Pub. L. 103-82, title III, §371(b)(2), Sept. 21, 1993, 107 Stat. 911; Pub. L. 103-353, §5(d), (e)(2), Oct. 13, 1994, 108 Stat. 3174; Pub. L. 104-186, title II, §215(14), Aug. 20, 1996, 110 Stat. 1746; Pub. L. 104-316, title I, §103(g), Oct. 19, 1996, 110 Stat. 3829; Pub. L. 105-33, title VII, §7001(b)(1), Aug. 5, 1997, 111 Stat. 657; Pub. L. 105-61, title V, §516(a)(8), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 105-261, div. C, title XXXI, §3154(i)(1), Oct. 17, 1998, 112 Stat. 2255; Pub. L. 106-65, div. A, title X, §1066(d)(3), Oct. 5, 1999, 113 Stat. 773; Pub. L. 106-346, §101(a) [title V, §505(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A-52; Pub. L. 106-553, §1(a)(2) [title III, §308(c)(3)], Dec. 21, 2000, 114 Stat. 2762, 2762A-87; Pub. L. 107-107, div. A, title XI, §1132(b)(2)(A), (B), Dec. 28, 2001, 115 Stat. 1243, 1244; Pub. L. 107-135, title I, §122(b), Jan. 23, 2002, 115 Stat. 2451; Pub. L. 108-92, §1(b), Oct. 3, 2003, 117 Stat. 1160; Pub. L. 108-176, title II, §226(b)(2)(A), Dec. 12, 2003, 117 Stat. 2530; Pub. L. 110-161, div. E, title V, §535(b)(4), Dec. 26, 2007, 121 Stat. 2076.)

#### REFERENCES IN TEXT

Section 3101(a) of the Internal Revenue Code of 1986, referred to in subsec. (a)(2)(B), is classified to section 3101(a) of Title 26, Internal Revenue Code.

Section 8415(k), referred to in subsec. (d)(2), probably means the section 8415(k) added by Pub. L. 107-135, title I, §122(a), Jan. 23, 2002, 115 Stat. 2451, and redesignated

by Pub. L. 108-92, which relates to inclusion of unused sick leave in computing an annuity of a registered nurse with the Veterans Health Administration.

The Economic Opportunity Act of 1964, referred to in subsec. (f)(1), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title VIII of the Act probably means title VIII of Pub. L. 88-452 as added by Pub. L. 89-794, title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub. L. 90-222, title I, § 110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare, prior to its repeal by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417. Part A of title VIII of the Act is part A of title VIII of Pub. L. 88-452 as added by Pub. L. 90-222, § 110, which was classified generally to part A (§ 2992 et seq.) of subchapter VIII of chapter 34 of Title 42, prior to its repeal by Pub. L. 93-113, § 603. See sections 4951 et seq. and 5055 of Title 42. For complete classification of this Act to the Code, see Tables.

Parts A, B, and C of title I of the Domestic Volunteer Service Act of 1973, referred to in subsec. (f)(1), are classified to part A (§ 4951 et seq.), part B (§ 4971 et seq.), and part C (§ 4991 et seq.), respectively, of subchapter I of chapter 66 of Title 42.

The Peace Corps Act, referred to in subsec. (f)(1), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. Sections 5(c) and 6(1) of the Act are classified to sections 2504(c) and 2505(1), respectively, of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

#### AMENDMENTS

2007—Subsec. (a)(3). Pub. L. 110-161 inserted table for customs and border protection officer.

2003—Subsec. (d)(2). Pub. L. 108-176, which directed the substitution of “8415(j)” for “8415(i)”, could not be executed because “8415(i)” did not appear subsequent to amendment by Pub. L. 108-92. See below.

Pub. L. 108-92 substituted “8415(k)” for “8415(i)”.

2002—Subsec. (d). Pub. L. 107-135 designated existing provisions as par. (1) and added par. (2).

2001—Pub. L. 107-107, § 1132(b)(2)(B), substituted “other service” for “military service” in section catchline.

Subsec. (h). Pub. L. 107-107, § 1132(b)(2)(A), added subsec. (h).

2000—Subsec. (a)(3). Pub. L. 106-553 inserted “member of the Supreme Court Police,” after “member of the Capitol Police,” in table for law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.

Pub. L. 106-346, § 101(a) [title V, § 505(b)(1)], added par. (3) and struck out former par. (3), which set out tables of applicable percentages for employee, Congressional employee, Member, law enforcement officer, firefighter, member of the Capitol Police, air traffic controller, and nuclear materials courier.

Subsec. (e)(6). Pub. L. 106-346, § 101(a) [title V, § 505(b)(2)], inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “January 1, 2001, through December 31, 2002, shall be 3.5 percent.”

Subsec. (f)(4). Pub. L. 106-346, § 101(a) [title V, § 505(b)(3)], inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “January 1, 2001, through December 31, 2002, shall be 3.5 percent.”

1999—Subsec. (a)(3). Pub. L. 106-65, in table for nuclear materials courier, substituted “October 16, 1998” for “the day before the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999” and “October 17, 1998” for “The date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999”.

1998—Subsec. (a)(3). Pub. L. 105-261 inserted table for nuclear materials courier.

1997—Subsec. (a)(2), (3). Pub. L. 105-33, § 7001(b)(1)(A), added pars. (2) and (3) and struck out former par. (2) which read as follows: “The applicable percentage under this subsection for any pay period shall be—

“(A) in the case of an employee (other than a law enforcement officer, firefighter, air traffic controller, or Congressional employee) a percentage equal to—

“(i) 7 percent, minus

“(ii) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance); and

“(B) in the case of a Member, law enforcement officer, firefighter, air traffic controller, or Congressional employee, a percentage equal to—

“(i) 7½ percent, minus

“(ii) the same percentage as would apply in the case of an employee under subparagraph (A)(ii).”

Subsec. (e)(1)(A). Pub. L. 105-33, § 7001(b)(1)(B)(i), inserted “and subject to paragraph (6),” after “Except as provided in subparagraph (B).”

Subsec. (e)(6). Pub. L. 105-33, § 7001(b)(1)(B)(ii), added par. (6).

Subsec. (f)(1). Pub. L. 105-33, § 7001(b)(1)(C)(i), inserted at end “This paragraph shall be subject to paragraph (4).”

Subsec. (f)(4). Pub. L. 105-33, § 7001(b)(1)(C)(ii), added par. (4).

Subsec. (g). Pub. L. 105-61 added subsec. (g).

1996—Subsec. (c). Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General of the United States”.

Subsec. (e)(1)(A), (3). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1994—Subsec. (a)(2)(A)(ii). Pub. L. 103-353, § 5(e)(2), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e)(1). Pub. L. 103-353, § 5(d)(1), designated existing provisions as subpar. (A) and substituted “Except as provided in subparagraph (B), each employee” for “Each employee” and added subpar. (B).

Subsec. (e)(2)(B). Pub. L. 103-353, § 5(d)(2), inserted before comma at end “following the period of military service for which such deposit is due”.

1993—Subsec. (f). Pub. L. 103-82 added subsec. (f).

1988—Subsec. (e)(5). Pub. L. 100-238 added par. (5).

#### EFFECTIVE DATE OF 2007 AMENDMENT; TRANSITION RULES

Amendment by Pub. L. 110-161 effective on the later of June 30, 2008, or the first day of the first pay period beginning at least 6 months after Dec. 26, 2007, with transition rules and rights of election, see section 535(e) of Pub. L. 110-161, set out as a note under section 3307 of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual’s separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

Amendment by Pub. L. 108-92 applicable with respect to any annuity entitlement which is based on a separation from service occurring on or after Oct. 3, 2003, see section 2 of Pub. L. 108-92, set out as a note under section 8415 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-135 effective 60 days after Jan. 23, 2002, and applicable to individuals who separate from service on or after that effective date, see section 122(c) of Pub. L. 107-135, set out as a note under section 8415 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable only to separations from service as an employee of the United

States on or after Dec. 28, 2001, see section 1132(c) of Pub. L. 107–107, set out as a note under section 8332 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106–553 effective on the first day of the first applicable pay period that begins on Dec. 21, 2000, and applicable only to an individual who is employed as a member of the Supreme Court Police after Dec. 21, 2000, see section 1(a)(2) [title III, § 308(i), (j)] of Pub. L. 106–553, set out in a Supreme Court Police Retirement note under section 8331 of this title.

Amendment by Pub. L. 106–346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, § 505(i)] of Pub. L. 106–346, set out as a note under section 8334 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–261 effective at the beginning of the first pay period that begins after Oct. 17, 1998, and applicable only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of this title, after Oct. 17, 1998, see section 3154(m), (n) of Pub. L. 105–261, set out as a note under section 8331 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by Pub. L. 105–61 applicable to any annuity commencing before, on, or after Oct. 10, 1997, and effective with regard to any payment made after the first month following Oct. 10, 1997, see section 516(b) of Pub. L. 105–61, set out as a note under section 8334 of this title.

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105–33, set out as a note under section 8334 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of Title 38, Veterans' Benefits.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, and applicable with respect to any individual entitled to an annuity on the basis of a separation from service occurring before, on, or after Oct. 1, 1993, subject to rule relating to annuities based on earlier separations, see sections 371(c) and 392 of Pub. L. 103–82, set out as notes under section 8332 of this title and section 4951 of Title 42, The Public Health and Welfare, respectively.

#### NO REDUCTION IN AGENCY CONTRIBUTIONS

Pub. L. 105–261, div. C, title XXXI, § 3154(i)(2), Oct. 17, 1998, 112 Stat. 2256, provided that: “Contributions under subsections (a) and (b) of section 8423 of title 5, United States Code, shall not be reduced as a result of that portion of the amendment made by paragraph (1) [amending this section] requiring employee deductions at a rate in excess of 7.5 percent for the period beginning on January 1, 1999, and ending on December 31, 2002.”

Section 7001(b)(2) of Pub. L. 105–33 provided that: “Contributions under section 8423(a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) [amending this section] of this subsection.”

### § 8423. Government contributions

(a)(1) Each employing agency having any employees or Members subject to section 8422(a) shall contribute to the Fund an amount equal to the sum of—

(A) the product of—

(i) the normal-cost percentage, as determined for employees (other than employees covered by subparagraph (B)), multiplied by

(ii) the aggregate amount of basic pay payable by the agency, for the period involved, to employees (under clause (i)) who are within such agency; and

(B) the product of—

(i) the normal-cost percentage, as determined for Members, Congressional employees, law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, air traffic controllers, military reserve technicians, and employees under sections 302 and 303 of the Central Intelligence Agency Retirement Act, multiplied by

(ii) the aggregate amount of basic pay payable by the agency, for the period involved, to employees and Members (under clause (i)) who are within such agency.

(2) In determining any normal-cost percentage to be applied under this subsection, amounts provided for under section 8422 shall be taken into account.

(3) Contributions under this subsection shall be paid—

(A) in the case of law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, air traffic controllers, military reserve technicians, and other employees, from the appropriation or fund used to pay such law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, air traffic controllers, military reserve technicians, or other employees, respectively;

(B) in the case of elected officials, from an appropriation or fund available for payment of other salaries of the same office or establishment; and

(C) in the case of employees of the legislative branch paid by the Chief Administrative Officer of the House of Representatives, from the applicable accounts of the House of Representatives.

(4) A contribution to the Fund under this subsection shall be deposited under such procedures as the Comptroller General of the United States may prescribe.

(b)(1) The Office shall compute—

(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the Postal Regulatory Commission) and their survivors;

as of the close of each fiscal year beginning after September 30, 1987.

(2) The amount of any supplemental liability computed under paragraph (1)(A) or (1)(B) shall be amortized in 30 equal annual installments, with interest computed at the rate used in the most recent valuation of the System.